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AMENDMENT AND RESPONSE TO OFFICE ACTION
August 23, 2001
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REMARKS

Claim Rejections – 35 USC 112

Claims 42 and 43 are rejected under 35 USC 112, first paragraph, as containing subject matter not adequately described in the specification. To overcome this rejection, more detail has been provided in the paragraph describing the adjustment drive for chain 101. The added description relates to structure already shown in the drawings, and reference numerals have simply been added to assist in the more detailed description. Thus, no new matter has been added, and the claimed subject matter can now be readily understood by those skilled in the art. In view of the foregoing, it is respectfully asked that the rejection of claims 42 and 43 under 35 USC 112 be withdrawn.

Allowable Subject Matter

The indication of allowable subject matter in claim 43 is acknowledged with thanks. Since reconsideration is being requested herein with respect to base claim 14 from which claim 43 ultimately depends, claim 43 has not been rewritten at this time.

Double Patenting

A Terminal Disclaimer is filed herewith to overcome the nonstatutory double patenting rejections of claims 14-41, 44 and 45 set forth at pages 3-5 of the Office Action. The Terminal Disclaimer is accompanied by a pair of Statements Under 37 CFR 3.73(b) establishing that the present application and U.S. Patent No. 6,162,523 are commonly owned by Leica Microsystems AG, and by a check in the amount of \$110.00 as payment of the Terminal Disclaimer fee. Removal of the double patenting rejection is respectfully requested.

Claim Rejections – 35 USC 103

Claims 14-39, 44, and 45 are rejected under 35 USC 103(a) as being unpatentable over US 5,609,316 (Tigliev) in view of US 5,425,068 (Schaefer et al.). The rejection is respectfully

traversed because neither the primary reference nor the secondary reference, taken alone or in combination with the other, teaches a microscope stand support member that includes "first and second concentric tubes" as required by independent claim 14.

Tigliev shows microscope stand embodiments in external perspective and elevational views, but does not describe the internal structure of any of the support members making up the microscope stand. The Office Action makes reference, near the middle of page 6, to "the fiber reinforced plastic tube taught by Tigliev...". However, it is respectfully contended that Tigliev provides no such teaching. In fact, the disclosure of Tigliev does not discuss whether the various microscope stand support members are solid or tubular.

The patent to Schaefer et al. also fails to disclose or suggest concentrically arranged tubes in a microscope stand support member. Fig. 3 of Schaefer et al. shows an arcuate support member or "C-bend" 5 (see Fig. 1) in cross-section. The C-bend includes an aluminum extruded profile 14 that is non-tubular, and that has a small cross-section allowing it to be rolled and formed into an arc in a cost-efficient manner. Two generally U-shaped fiber-reinforced plastic covers 12 have their free edges coupled to opposite sides of the aluminum extrusion 14 in symmetrical fashion to surround all but the outer edges of aluminum extrusion 14. Thus, Schaefer et al. fails to disclose concentrically arranged tubes. In fact, the claimed invention would run contrary to the goals of Schaefer et al. because replacing the aluminum extrusion with a tube would make it much more difficult to roll an arcuate C-bend.

In view of the foregoing, it is respectfully urged that claim 14, and claims 15-39, 44, and 45 depending therefrom, are patentable over the cited references. Favorable reconsideration of these claims is respectfully requested.

Claims 40 and 41 are rejected under 35 USC 103(a) as being unpatentable over US 5,609,316 (Tigliev) in view of US 5,425,068 (Schaefer et al.), in further view of US 4,690,960 (Yamauchi et al.). The rejection is respectfully traversed because none of the references, taken alone or in combination with others, teaches a microscope stand support member that includes "first and second concentric tubes" as required by independent claim 14, from which claims 40 and 41 depend.

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Claim 42 is rejected under 35 USC 103(a) as being unpatentable over Tigliev in view of Schaefer et al., in further view of US 3,637,233 (Hoppl et al.). The rejection is respectfully traversed because none of the references, taken alone or in combination with others, teaches a microscope stand support member that includes "first and second concentric tubes" as required by independent claim 14, from which claim 42 depends.

Reconsideration of claims 40-42 and withdrawal of the rejections under 35 USC 103 is earnestly sought.

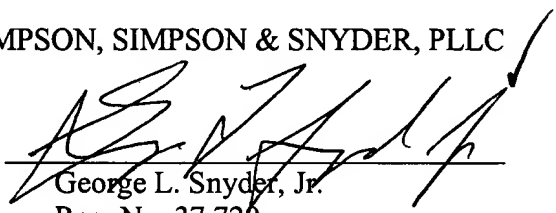
Conclusion

If the Examiner has any questions, or considers an interview with Applicants' attorneys would expedite prosecution, the undersigned attorney may be contacted at the number provided below.

Respectfully submitted,

SIMPSON, SIMPSON & SNYDER, PLLC

By


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Dated: August 23, 2001



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT COOPERATION TREATY

Applicant(s): Andreas METELSKI et al.

Atty Ref: 288.999651

Serial No.: 09/423916

Group Art Unit: 3632

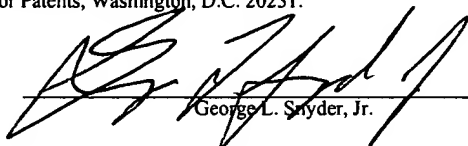
Filing Date: 28-Feb-2000

Examiner: Steven Marsh

Title: MICROSCOPE STAND, ESPECIALLY FOR A SURGICAL MICROSCOPE
(as amended)

CERTIFICATION UNDER 37 C.F.R. 1.8

I hereby certify that this Marked Version of Replacement Paragraph is being deposited with the United States Postal Service as first class mail on August 23, 2001 in an envelope addressed to: Box Response - Fee, Commissioner for Patents, Washington, D.C. 20231.


George L. Snyder, Jr.

MARKED VERSION OF REPLACEMENT PARAGRAPH

Box Response - Fee
Commissioner for Patents
Washington, D.C. 20231

As directed in the accompanying Amendment and Response, the paragraph in marked form below replaces the paragraph at page 14, lines 22-25 of the above-identified application:

Figure 7 shows a length adjustment 102 with which the chain 101 can be tightened, and an adjusting drive 103 with a drive shaft, by which the chain 101 can be driven. The adjusting drive has an eccentric [gear] mechanism 109 which allows the feet 100 to be quickly adjusted and also fixed well in the selected position. More specifically, the adjusting drive includes a rotatable drive shaft 104 drivably connected to a first lever 204, which in turn is pivotably connected by a pin 205 to a second lever 203. Second lever 203 is pivotably connected by a pin 202 to a movable plate 201 which is guided by a guiding plate 200 fixed to housing 33 of stand base 23. Both ends of movable plate 201 are connected to chain 101. Consequently, as drive shaft 104 is rotated, pin 202 is displaced causing movable plate 201 to move in a travel direction of guide plate 200, thereby driving chain 101.

Fig 7

